

PROPERTY MAINTENANCE ORDINANCE

FOR THE TOWN OF HIRAM

Adopted:

Property Maintenance Ordinance Town of Hiram, Maine

Section 1. Purpose

The purpose of this ordinance is to set a minimum standard for the maintenance of the grounds and buildings of any property located within the town of Hiram, in order to protect public health, public safety, and to prevent nuisance conditions.

Section 2. Authority

This ordinance is enacted pursuant to State law, Title 30-A Section 3001.

Section 3. Required Maintenance

I. All grounds, structures, and parts thereof shall be maintained to prevent unsafe, unsanitary, and/or nuisance conditions (as defined within this ordinance), and to avoid any adverse effect on the community and adjoining properties.

II. Abandoned structures of any kind that are collapsing and dilapidated with broken/missing windows, holes in the roof and/or exterior walls or having vermin living in the structure or building will be required to be demolished and removed or made safe so as to remove the hazards to public health and safety.

Section 4. Grounds Maintenance Standards

The grounds of any property shall be kept in good repair and free of unsafe or unsanitary conditions. Examples of items which may create such conditions include, but are not limited to: Junkyards and Automobile Graveyards (see also the Town of Hiram Ordinance to Regulate Automobile Graveyards, Junkyards and Automobile Recycling Businesses) tires, household debris, scrap metals, boats, snowmobiles, motorcycles, motor homes, all-terrain vehicles, trailers, motors, wood & discarded lumber or plastic, refuse, household trash, human waste, and other items that may cause nuisance, health and/or safety concerns for individuals residing on the property, for the surrounding community, and adjoining properties.

Section 5. Placement of Fill

Fill that consists of non-natural materials including hazardous materials or any other materials that are not included in the definition of clean fill shall be prohibited. The placement of any prohibited fill shall be deemed a violation of the Ordinance and shall be the responsibility of the property owner to have the contaminated fill removed from the site, under the direction of the Code Enforcement Officer.

Section 6. Responsibilities

Owners, managers, and occupants of properties in violation of this ordinance may be jointly or severally liable for violations, for corrective actions required, and/or for any monetary costs incurred, including but not limited to fines or court costs.

Section 7. Enforcement & Penalties

The Code Enforcement Officer (CEO) of the Town of Hiram shall enforce the provisions of this ordinance.

I. The code enforcement officer and/or health officer may enter any property when legally authorized to do so upon receipt of valid information indicating the likelihood of a violation of this ordinance. The CEO and/or health officer shall investigate the reported information to the best of their ability within their authority, document their detailed findings and shall serve written notice, first to be delivered by USPS priority mail. If, after 21 calendar days, there has been no contact made with or follow up from the legally responsible parties for the land and property written notice will be sent via USPS certified mail. As with other enforcement matters, the CEO shall first seek voluntary cooperation from the violator, allowing no more than 45 calendar days, from the date of the first USPS letter mailed, for the completion of corrective action, or a Selectboard meeting for an administrative consent agreement to occur.

II. The Selectboard may enter into administrative consent agreements in the name of the Town for the purposes of voluntarily eliminating violations and recovering penalties without court action.

III. If appropriate action to correct the violation(s) has not been taken within the period established, the CEO and/or the Town Attorney, upon approval from the Selectboard, may initiate appropriate court proceedings to prevent, correct, and/or abate the violation(s). Such court proceedings may include the initiation of a land use complaint pursuant to Rule 80-K of the Maine Rules of Civil Procedure.

If a violation is not corrected or the persons responsible have not entered into an administrative consent agreement within the time allowed, the Town shall pursue all remedies and relief within their legal authority. The remedies and relief the Town may pursue include, without limitation, the remedies and relief provided in 30-A M.R.S. Section 4452 (including the assessment of civil penalties on a per-day basis, the recuperation of reasonable attorney and attorney office staff fees, expert witness fees, and court filing costs), as well as violation(s) of the Junkyards and Automobile Graveyards law in 30-A M.R.S. chapter 183. Additionally, the Selectboard may also bring a dangerous building proceeding under 17 M.R.S. § 2851 to seek the abatement or disposal of a dangerous or nuisance building.

The CEO, if certified, may represent the Town in District Court, pursuant to Rule 80-K. However, should the services of the Town Attorney be required, in litigation in a higher court of law for example, the CEO shall first seek approval from the Selectboard.

The CEO may allow for an extension of up to 90 days to abate the violation without court action if the CEO deems it necessary due to hardship or extenuating circumstances. For a violation discovered during winter months (November 1 – April 1), if weather or ground conditions prevent the correction of a violation, the CEO may grant an extension for abatement before presentation to the Selectboard for possible legal proceedings. Cases of disability or financial hardship shall also be grounds for the consideration of an extension. Violators requesting an extension for financial hardship shall be required to prove hardship through financial documentation. These extensions for seasonal, disability, or financial hardship shall be at the discretion of the CEO and will require a Consent Agreement.

Section 8. Severability

If any section, subsection, clause, paragraph, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed to be a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 9. Effective Date

This ordinance shall be effective upon adoption by the Town of Hiram and may be amended in accordance with Town requirements for amending ordinances.

Appendix: Definitions

Clean Fill: Fill means any soil materials, including soil from road ditching and sand from winter sand cleanup; stone and rock; bricks; crushed clean glass or porcelain; and cured concrete; that are not mixed with solid or liquid waste and are not derived from an ore mining material.

Grounds: Any part of a property that is not covered by structures, including, but not limited to, driveways, pathways, gardens, forests, and lawn.

Nuisance Condition: As defined by Title 17 M.R.S. Section 2802. It reads as follows: "The erection, continuance or use of any building or place for the exercise of a trade, employment or manufacture which, by noxious exhalations, offensive smells, or any other annoyances, become injurious and dangerous to the health, comfort or property of individuals, or of the public; causing or permitting abandoned wells or tin mining shafts to remain unfilled or uncovered to the injury or prejudice of others; causing or suffering any offal, filth or noisome substance to collect, or to remain in any place to the prejudice of others; obstructing or impeding, without legal authority, the passage of any navigable river, harbor or collection of water; corrupting or rendering unwholesome or impure the water of a river, stream, pond or aquifer; unlawfully diverting it from its natural course or state, to the injury or prejudice of others; and the obstructing or encumbering by fences, buildings or otherwise, of highways, private ways, streets, alleys, commons, common landing places or burying grounds are nuisances within the limitations and exceptions mentioned. Any places where one or more old, discarded, worn out or junked motor vehicles as defined in Title 29-A, section 101, subsection 42, or parts thereof, are gathered together, kept, deposited, or allowed to accumulate, in such manner or in such location or situation, either within or without the limits of any highway, as to be unsightly, detracting from the natural scenery or injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are declared to be public nuisances."

Occupant: Any person living, sleeping, or having vested interest in any dwelling, structure, or personal property on the grounds of a property, including, but not limited to, rental tenants in apartments, campers parked and/or being inhabited on the grounds, individuals residing in tents, renters of storage units/space, etc.

Owner: Any person who, alone or jointly or severally with each other, shall have legal or equitable title to any property, with or without accompanying actual possession thereof, or shall have charge or control of any dwelling unit as owner or agent of the owner or as fiduciary including but not limited to executor, administrator, trustee, receiver or guardian or the estate or as a mortgage in possession, regardless of how such possession was obtained.

Property: For this ordinance the term shall be defined as any lot, plot, or parcel of land.

Structure (for the purposes of this ordinance): Anything built or constructed and placed on a property that cannot be considered grounds or landscaping. It especially includes residential, commercial, or industrial buildings with usable interior space. It also refers to auxiliary buildings and constructed features such as storage sheds, garages, pergolas, gazebos, stone walls, etc.